

Article 23.

Administrative Provisions; Assent to Certain Federal Acts.

§ 113-301: Repealed by Session Laws 1979, c. 830, s. 1.

**§ 113-301.1. Wildlife Resources Commission obligated to make efforts to notify members of the public who may be affected by operative provisions of statutes and rules.**

(a) The Wildlife Resources Commission must prepare and distribute to license agents informational materials relating to hunting, fishing, trapping, and boating laws and rules administered by the Wildlife Resources Commission. The materials furnished an agent should be appropriate to the types of licenses the agent customarily handles, and in a quantity reasonably anticipated to be sufficient to meet the needs of licensees obtaining licenses from the agent.

(b) In issuing new licenses and permits from the Raleigh office by mail, the Wildlife Resources Commission must generally inform the licensee or permittee of governing provisions of law and rules applicable to the type of license or permit secured. In issuing renewal licenses and permits by mail, the Wildlife Resources Commission must inform the licensee or permittee of any substantial changes in the law or rules that may affect the activities of the licensee or permittee.

(c) After adopting rules that impose new restrictions upon the activities of members of the public who do not normally hold licenses or permits to engage in the activity in question, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions. These steps may include press releases to the media, informing local authorities, and other forms of communication that give promise of reaching the segment of the public affected.

(d) After adopting new restrictions on hunting, fishing, trapping, or boating at a time other than when usual annual changes in the rules affecting those activities are adopted, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions in a manner designed to reach persons who may be affected.

(e) Repealed by Session Laws 1987, c. 827, s. 9. (1979, c. 830, s. 1; 1979, 2nd Sess., c. 1285, s. 10; 1987, c. 827, s. 9; 2004-195, s. 1.1.)

**§ 113-302. Prima facie evidence provisions.**

(a) Except as provided below, possession of game or game fish in any hotel, restaurant, cafe, market, or store, or by any produce dealer, constitutes prima facie evidence of possession for the purpose of sale. This subsection does not apply to:

(1) Possession of propagated game birds or hatchery-reared trout that is in accordance with licensing requirements and wrapping or tagging provisions that may apply; or

(2) Game or game fish brought in by patrons in accordance with G.S. 113-276(i).

(b) The flashing or display of any artificial light between a half hour after sunset and a half hour before sunrise in any area which is frequented or inhabited by wild deer by any person who has accessible to him a firearm, crossbow, or other bow and arrow constitutes prima facie evidence of taking deer with the aid of an artificial light. This subsection does not apply to the headlights of any vehicle driven normally along any highway or other public or private roadway. (1965, c. 957, s. 2; 1979, c. 830, s. 1.)

**§ 113-302.1. Inspection of licensed or commercial premises; authority to secure inspection warrants.**

(a) Protectors are authorized to enter and make a reasonable inspection at an appropriate time of day of any premises in which a person subject to administrative control under G.S. 113-276.2 conducts his operations to determine whether any wildlife on the premises is possessed in accordance with applicable laws and rules, required records are being kept, and other legal requirements are being observed. It is an appropriate time of day for inspection if the establishment is open for business or if a proprietor or employee is on the premises.

(b) In cases not controlled by subsection (a), protectors who believe that wildlife may be on the premises of any public refrigeration storage plant, meat shop, store, produce market, hotel, restaurant, or other public food-storage or eating place may request permission to enter the nonpublic areas of the premises to make a reasonable inspection to determine whether any wildlife on the premises is possessed in accordance with applicable laws and rules. If the person in charge of the premises refuses the inspection request of a protector, he is authorized to procure and execute an administrative search warrant issued under the terms of Article 4A of Chapter 15 of the General Statutes or under any successor legislation.

(c) In cases controlled by subsection (a), an administrative search warrant may be secured in the protector's discretion or if case law requires it. Nothing in this section is intended to prevent a lawful search of premises, with or without a search warrant under Chapter 15A of the General Statutes, when the circumstances so justify. (1979, c. 830, s. 1; 1987, c. 827, s. 98.)

**§ 113-303. Arrest, service of process and witness fees of protectors.**

All arrest fees and other fees that may be charged in any bill of costs for service of process by protectors must be paid to the county in which the trial is held. No witness fee may be taxed in any bill of costs by virtue of the appearance of a protector as a witness in a criminal case within his enforcement jurisdiction. Acceptance by any protector of any arrest fee, witness fee, or any other fee to which he is not entitled is a Class 1 misdemeanor. (1965, c. 957, s. 2; 1993, c. 539, s. 866; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 113-304. Reciprocal agreements by Wildlife Resources Commission.**

The Wildlife Resources Commission is empowered to make reciprocal agreements with other jurisdictions respecting the matters governed in this Subchapter. Pursuant to such agreements the Wildlife Resources Commission may by rule modify provisions of this Subchapter in order to effectuate the purposes of such agreements, in the overall best interests of the conservation of wildlife resources. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1987, c. 827, s. 98.)

**§ 113-305. Cooperative agreements by Wildlife Resources Commission.**

The Wildlife Resources Commission is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Wildlife Resources Commission may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of wildlife resources. (1965, c. 957, s. 2; 1973, c. 1262, s. 18.)

**§ 113-306. Administrative authority of Wildlife Resources Commission; disposition of license funds; delegation of powers; injunctive relief; emergency powers.**

(a) In the overall best interests of the conservation of wildlife resources, the Wildlife Resources Commission may lease or purchase lands, equipment, and other property; accept gifts and grants on behalf of the State; establish wildlife refuges, management areas, and boating and fishing access areas, either alone or in cooperation with others; provide matching funds for entering into projects with some other governmental agency or with some scientific, educational, or charitable foundation or institution; condemn lands in accordance with the provisions of Chapter 40A of the General Statutes and other governing provisions of law; and sell, lease, or give away property acquired by it. Provided, that any private person selected to receive gifts or benefits by the Wildlife Resources Commission be selected:

- (1) With regard to the overall public interest that may result; and
- (2) From a defined class upon such a rational basis open to all within the class as to prevent constitutional infirmity with respect to requirements of equal protection of the laws or prohibitions against granting exclusive privileges or emoluments.

(b) Except as otherwise specifically provided by law, all money credited to, held by, or to be received by the Wildlife Resources Commission from the sale of licenses authorized by this Subchapter must be consolidated and placed in the Wildlife Resources Fund.

(c) The Wildlife Resources Commission may, within the terms of policies set by rule, delegate to the Executive Director all administrative powers granted to it.

(d) The Wildlife Resources Commission is hereby authorized and directed to develop a plan and policy of wildlife management for all lands owned by the State of North Carolina which are suitable for this purpose. The Division of State Property and Construction of the Department of Administration shall determine which lands are suitable for the purpose of wildlife management. Nothing in the wildlife management plan shall prohibit, restrict, or require the change in use of State property which is presently being used or will in the future be used to carry out the goals and objectives of the State agency utilizing such land. Each plan of wildlife management developed by the Wildlife Resources Commission shall consider the question of public hunting; and whenever and wherever possible and consistent with the primary land use of the controlling agency, public hunting shall be allowed under cooperative agreement with the Wildlife Resources Commission. Any dispute over the question of public hunting shall be resolved by the Division of State Property and Construction.

(e) Subject to any policy directives adopted by the members of the Wildlife Resources Commission, the Executive Director in his discretion may institute an action in the name of the Wildlife Resources Commission in the appropriate court for injunctive relief to prevent irreparable injury to wildlife resources or to prevent or regulate any activity within the jurisdiction of the Wildlife Resources Commission which constitutes a public nuisance or presents a threat to public health or safety.

(f) The Wildlife Resources Commission may adopt rules governing the exercise of emergency powers by the Executive Director when the Commission determines that such powers are necessary to respond to a wildlife disease that threatens irreparable injury to wildlife or the public. The rules shall provide that the Executive Director must consult with the Commission, the State Veterinarian, and the Governor prior to implementing the emergency powers. The rules shall also specify the method by which the public will be notified of the exercise of emergency powers. The exercise of emergency powers shall not extend for more than 90 days after the Commission's

determination that a disease outbreak has occurred, unless a temporary rule is adopted by the Commission in accordance with G.S. 150B-21.1 to replace the emergency powers. If a temporary rule is adopted prior to the expiration of the 90 days, the Executive Director may continue to exercise emergency powers until either a permanent rule to replace the temporary rule becomes effective or the temporary rule expires as provided by G.S. 150B-21.1(d). The Commission's determination that a disease outbreak has occurred shall constitute a basis for adoption of a temporary rule. The emergency powers that may be authorized by rules adopted pursuant to this subsection include:

- (1) Prohibiting activities that aid in the transmission or movement of the disease.
- (2) Implementing activities to reduce infection opportunities.
- (3) Implementing requirements to assist in the detection and isolation of the disease. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1977, c. 759; 1979, c. 830, s. 1; 1981, c. 482, s. 3; 1987, c. 827, ss. 98, 106; 2007-401, s. 1.)

### **§ 113-307. Adoption of federal laws and regulations.**

To the extent that the Wildlife Resources Commission is granted authority under this Chapter or under any other provision of law, including Chapter 75A of the General Statutes, over subject matter as to which there is concurrent federal jurisdiction, the Wildlife Resources Commission in its discretion may by reference in its rules adopt relevant provisions of federal law and regulations as State rules. To prevent confusion or conflict of jurisdiction in enforcement, the Wildlife Resources Commission may provide for an automatic incorporation by reference into its rules of future changes within any particular set of federal laws or regulations relating to some subject clearly within the jurisdiction of the Wildlife Resources Commission. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1987, c. 827, s. 107.)

#### **§ 113-307.1. Legislative assent to specific federal acts.**

(a) The consent of the General Assembly of North Carolina is hereby given to the making by the Congress of the United States, or under its authority, of all such rules and regulations as the federal government shall determine to be needful in respect to game animals, game and nongame birds, and fish on such lands in the western part of North Carolina as shall have been, or may hereafter be, purchased by the United States under the terms of the act of Congress of March 1, 1911, entitled "An act to enable any state to cooperate with any other state or states, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purposes of conserving the navigability of navigable rivers" (36 Stat. 961), and acts of Congress supplementary thereto and amendatory thereof, and in or on the waters thereon.

Nothing in this subsection shall be construed as conveying the ownership of wildlife from the State of North Carolina or permit the trapping, hunting, or transportation of any game animals, game or nongame birds, or fish by any person, including any agency, department, or instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall have been or may hereafter be purchased by the United States under the terms of any act of Congress, except in accordance with the provisions of this Subchapter

and its implementing regulations. Provided, that the provisions of G.S. 143B-135.20 apply with respect to licenses.

Any person, including employees or agents of any department or instrumentality of the United States, violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

(b) The State of North Carolina hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress, also known as the "Pittman-Robertson Act"), 16 U.S.C. § 669, et seq., as amended, and the Wildlife Resources Commission and the Division of Marine Fisheries of the Department of Environmental Quality are hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in the Pittman-Robertson Act, in compliance with the Act and rules and regulations promulgated by the Secretary of the Interior under the Act. No funds accruing to the State of North Carolina from license fees paid by hunters shall be diverted for any other purpose than the protection and propagation of game and wildlife in North Carolina and administration of the laws enacted for such purposes, which laws are and shall be administered by the Wildlife Resources Commission. No funds accruing to the State of North Carolina from license fees paid by fishermen for license programs administered by the Division of Marine Fisheries shall be diverted for any other purpose than the administration by the Division of Marine Fisheries of the Department of Environmental Quality of the portion of the State's fish programs applicable to the marine and estuarine resources over which the Division has authority under State law. Revenues collected from coastal recreational fishing licenses in accordance with the provisions of G.S. 113-175.1(c) and G.S. 113-175.5(c) shall be used solely for the administration of the Division of Marine Fisheries and for program functions described by this subsection.

(c) Assent is hereby given to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950 (Public Law 681, 81st Congress, also known as the "Dingell-Johnson Sport Fish Restoration Act"), 16 U.S.C. § 777, et seq., as amended, the Wildlife Resources Commission and the Division of Marine Fisheries of the Department of Environmental Quality are hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in the Dingell-Johnson Sport Fish Restoration Act, in compliance with the Act and rules and regulations promulgated by the Secretary of the Interior under the Act; and no funds accruing to the State of North Carolina from license fees paid by fishermen shall be directed for any other purpose than the following:

- (1) The administration of the Wildlife Resources Commission and the protection, propagation, preservation, and investigation of fish and wildlife.

- (2) The administration by the Division of Marine Fisheries of the Department of Environmental Quality of the portion of the State's fish programs applicable to the marine and estuarine resources over which the Division has authority under State law. Revenues collected from coastal recreational fishing licenses in accordance with the provisions of G.S. 113-175.1(c) and G.S. 113-175.5(c) shall be used solely for the administration of the Division of Marine Fisheries and for program functions described by this subdivision.

(d) If as a precondition to receiving funds under any cooperative program there must be a separation of license revenues received from certain classes of licensees and utilization of such revenues for limited purposes, the Wildlife Resources Commission is directed to make such arrangements for separate accounting within the Wildlife Resources Fund, or for separate funding, as may be necessary to insure the use of the revenues for the required purposes and eligibility for the cooperative funds. This subsection applies whether the cooperative program is with a public or private agency and whether the Wildlife Resources Commission acts alone on behalf of the State or in conjunction with some other State agency. (1915, c. 205; C.S., s. 2099; 1939, c. 79, ss. 1, 2; 1979, c. 830, s. 1; 1993, c. 539, s. 867; 1994, Ex. Sess., c. 24, s. 14(c); 2004-199, s. 3; 2015-241, s. 14.30(ss); 2017-57, s. 13.15(b).)